

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,  
Plaintiff,

v.

RANDALL KEITH ROGERS,  
Defendant.

No. CR-08-0012-FVS

ORDER GRANTING MOTION FOR  
RECONSIDERATION IN PART

**THIS MATTER** comes before the Court on the United States' Motion For Reconsideration, Ct. Rec. 50. Assistant United States Attorney Aine Ahmed represents the United States. Stephen R. Hormel represents the Defendant.

The Government requests that the Court reconsider its decision to exclude the testimony of Agent Northcutt concerning certain statements made by Commissioner Aronow. In support of this request, the Government argues that the Federal Rules of Evidence do not apply in the context of a suppression hearing. It remains true, however, that permitting the Government to introduce the hearsay statement of Commissioner Aronow would deprive the Defendant of the opportunity cross examine, as well as to confront, the commissioner. Given the potentially dispositive nature of the Defendant's motion to suppress, this deprivation would be unfair. The Government's request to introduce hearsay will therefore be denied.

1 The Government also seeks to call Commissioner Aronow to testify  
2 for himself. The Defendant contends that Washington law limits this  
3 Court's review to the protective order and any contemporaneous  
4 judicial statements that are consistent with it. However, as the  
5 Government has argued, the Defendant himself has taken the Court's  
6 review of the protective order beyond these traditional limits by  
7 introducing the testimony of his expert witness, Mr. Karademos. The  
8 Government may accordingly call Commissioner Aronow to testify at the  
9 suppression hearing on Thursday. The Court being fully advised,

10 **IT IS HEREBY ORDERED:**

11 1. The United States' Motion For Reconsideration, **Ct. Rec. 50**, is  
12 **GRANTED IN PART** and **DENIED IN PART**.

13 2. The United States may call Commissioner Aronow to testify  
14 regarding the protective order at issue in this case on June 12, 2008.

15 **IT IS SO ORDERED.** The District Court Executive is hereby  
16 directed to enter this order and furnish copies to counsel.

17 **DATED** this 10th day of June, 2008.

18 s/ Fred Van Sickle  
19 Fred Van Sickle  
20 Senior United States District Judge